

REMARKS

This is in response to the Office Action dated February 11, 2008. In view of the foregoing amendments and following representations, reconsideration is respectfully requested.

By the above amendment, claim 1 is amended; and claim 10 is newly presented. Thus, claims 1-10 are currently pending in the present application.

On pages 3-6 of the Office Action, the claims are rejected over the prior art as follows:

Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooke et al. (U.S. Patent No. 6,758, 370) in view of Ovsienko (U.S. Patent No. 3,601,237); and

Claims 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooke et al. in view of Ovsienko as applied to claims 1-5 and 7, and further in view of Yuyama et al. (U.S. Patent No. 6,789,996).

The above rejections are respectfully traversed for the following reasons.

Cooke discloses a dispensing mechanism for “flat faced” packages 37, e.g. inkjet printer cartridges. As described in col. 7, lines 8-15, each package has a flat face 39 arranged on the underside of package, a flat upper face 41, and two flat side faces which are inclined. Clearly, the packages do not have any structure that could reasonably be considered to be a flange.

The packages in the Cooke dispenser are stacked in a storage chute 45, and can be dispensed via an inclined discharge ramp 53 (see Figs. 5-7), which is mounted in the chute. The Cooke dispensing mechanism includes a first tongue 57, and a vertically lower spaced second tongue 59 mounted externally of the chute. The first and second tongues are interconnected to form a structure that is mounted to permit “pivotal rocking movement” about a pivot axis 61

defined by pivot pin 63 (see col. 7, lines 30-40). By the pivoting movement, the tongues are advanced and retreated into the path 51 to allow the packages to be dispensed one at a time by gravity.

Clearly, the packages in Cooke are dispensed solely by gravity, and thus the Cooke dispenser lacks any structure corresponding to a pushing mechanism for pushing out the lowermost drug package in a horizontal direction as required in claim 1. Furthermore, Cooke lacks any structure corresponding to a guide member that is fixed on an inner surface of the drug case for supporting and guiding the flange of the package. As noted above, the Cooke packages simply do not include a flange of any type, much less a flange at an upper side of the package, as specified in claim 1.

In the explanation of the rejection, the Examiner states that Cooke discloses a guide member (57) *“provided fixedly on an inner surface of a side wall of the drug case separately from the pushing mechanism for supporting and guiding the flange of the second drug package when the lowermost drug package is being pushed out.”* This characterization of Cooke is factually incorrect because the Cooke dispensing mechanism dispenses the packages by gravity, and therefore lacks any structure corresponding to the pushing mechanism of claim 1. Also, the first tongue 57 is “mounted externally” of the chute 45, and clearly does not provide a “guiding” function.

Ovsienko is applied by the Examiner to teach a pushing mechanism for pushing out a lowermost package in a horizontal direction. The Examiner concludes that it would have been obvious to modify Cooke by *“including in the structure a pushing mechanism for pushing out the*

lowermost drug package in a horizontal direction along with the guide member being provided in a pushing direction of the pushing mechanism.” However, the Examiner’s proposed combination would completely alter the intended operation of the Cooke dispenser. Also, there is no way that the pack ejectors 16, 18 of Ovsienko could be employed in the environment of Cooke in which the first and second pivotal tongues 57, 59 function to drop the leading end of the lowermost package (see Fig. 2) while restricting downward movement of the remaining packages. The only possible application of Ovsienko to Cooke would be a wholesale substitution of the horizontal pushing mechanism of Ovsienko for the dispensing mechanism of Cooke. However, the resulting structure would clearly not meet the limitations of independent claims 1 or 5. Note that both claims require a structure for dispensing packages having an upper flange. Neither of the packages in the Cooke and Ovsienko dispensers have flanges, much less flanges at an upper side of the package.

With regard to claim 2, the Examiner states that Cooke discloses a guide member (57) *“provided on at least any one side of the two sides of the pushing direction (see Figure 2).”* As discussed above, Cooke does not have a “pushing” direction, and the first tongue is disposed above the dispensing direction of the package 37 as it slides down ramp 53. Furthermore, any characterization of the first tongue 57 as a “guiding member” is incorrect.

With regard to claim 5, the Examiner asserts that the packages 37 of Cooke include an upper flange. This is obviously incorrect because, as discussed above, the packages do not have any type of flange and the larger side of each package is the “lowermost” side. Also, the Examiner simply asserts that the chute 45 corresponds to both the upper case and the lower case recited in claim 5.

Note that claim 5 requires a pushing mechanism, disposed in said lower case, for pushing out and dispensing the lowermost package in a horizontal pushing direction. As noted above, the first and second tongues 57, 59 of Cooke are mounted externally of the chute 45.

Further, the Examiner's contention that Cooke discloses "*at least one guide member fixedly disposed on an inner sidewall of said lower case for supporting and guiding the flange of the second lowermost package*" is clearly incorrect. Note that claim 5 also specifies that "when the lowermost package is pushed out by said pushing mechanism, said guide member being provided above said pushing mechanism." This limitation is clearly not met by the Cooke disclosure taken alone or in combination with the teachings of Ovsienko.

With regard to claim 7, the Examiner states that the proposed Cooke/Ovsienko combination includes "*a pair of guide members disposed on opposite side walls of said lower case.*" Applicants are unaware of the structure on which the Examiner relies to meet this limitation. The Examiner takes the position that the tongue 57 corresponds to the claimed "at least one guide member". However, the tongue is mounted (via arm 69 and pivot pin 63) externally on a single side wall 49 of chute 45. How can this arrangement reasonably be considered to be mounted on opposite side walls of said lower case?

Further, in the rejection of claims 6, 8 and 9, the Examiner states that the Cooke/Ovsienko combination includes "*two rails, a screw disposed below and extending along the rails, and a pushing claw.*" The Examiner is respectfully requested to specifically identify the structures in the applied prior art references that correspond to these claimed features.

Lastly, new claim 10 recites that the pushing claw is normally disposed in a vertical

orientation and is adapted to be moved toward a horizontal orientation when driven in the reverse direction. This feature is disclosed in paragraph [0019] of the specification as originally filed. It is submitted that the applied prior art references do not disclose or remotely suggest the feature of new claim 10.

In view of the above, it is submitted that the present application is now clearly in condition for allowance. The Examiner therefore is requested to pass this case to issue.

In the event that the Examiner has any comments or suggestions of a nature necessary to place this case in condition for allowance, then the Examiner is requested to contact Applicant's undersigned attorney by telephone to promptly resolve any remaining matters.

Respectfully submitted,

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June 11, 2008